

THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his )  
capacity as ATTORNEY GENERAL )  
OF THE STATE OF OKLAHOMA and )  
OKLAHOMA SECRETARY OF THE )  
ENVIRONMENT C. MILES TOLBERT,) )  
in his capacity as the )  
TRUSTEE FOR NATURAL RESOURCES) )  
FOR THE STATE OF OKLAHOMA, )

Plaintiff, )

vs. )

TYSON FOODS, INC., et al, )

Defendants. )

- - - - -

MOTION FOR  
PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE GREGORY FRIZZELL

VOLUME I  
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February 19, 2008

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1 Q We're talking about -- is about the Illinois  
2 River watershed. Is there a potential for Indians  
3 making claim to the ownership of these rivers in  
4 this watershed; is that what they're addressing here  
5 in this letter in part?

02:01PM

6 A In part they're also approving a segment on  
7 that river, specifically approving a segment on that  
8 river.

9 Q Do you as a representative of the State of  
10 Oklahoma claim right, title and interest to all the  
11 waters in the IRW?

02:01PM

12 A All the waters?

13 Q Yes.

14 A The waters in the state, yes.

15 Q Including all the waters in the IRW?

02:02PM

16 A Yes.

17 Q Have you had a dispute with any of the tribes  
18 with respect to this water?

19 A I don't think we've had a dispute, no.

20 Q Have you had discussions?

02:02PM

21 A There are -- I think it's fair to say that  
22 there are some members of the Cherokee Nation who  
23 think they have a claim to the water.

24 Q Has that been resolved anywhere in a court of  
25 law?

02:02PM

1 A I don't believe it has.

2 Q Have you sued the tribe to determine who in  
3 reality has ownership?

4 A I think the State has ownership, but there has  
5 not been a suit like that, to my knowledge.

02:02PM

6 Q In your 2005 report, the report you said you  
7 annually submitted to the legislature --

8 A Yes.

9 THE COURT: Before we move on, that last  
10 reference was tribes retaining 303 responsibilities.  
11 To your knowledge, Secretary, have there been any  
12 tribes that have undertaken 303 responsibilities to  
13 date?

02:02PM

14 A No, I don't believe any tribe has ever  
15 submitted a 303(d) list.

02:03PM

16 Q Do you know that?

17 A Yes.

18 Q How do you know that; have you seen all the  
19 tribes' 303(d) list?

20 A It's part of my job to understand how the  
21 environment is regulated in the state, and it's an  
22 issue I know a little bit about, and to my  
23 knowledge -- in fact, I've never seen a 303(d) list  
24 from a tribe. The only tribe with any Clean Air Act  
25 responsibilities in the state is the Pawnees.

02:03PM

02:03PM